

WESTERN DIVISION

Chapter 13

Case No. 21-80450

Judge Lynch

Adv. No. 21 A

PURSUANT TO 11 U.S.C. §542

pursuant to 11 U.S.C. §542, states as follows:

1. This Honorable Court has jurisdiction pursuant to Section 157 and Section 1334 of Title 28 of the United States Code. This Adversary Proceeding constitutes a core proceeding within the meaning of 28 U.S.C. § 157(B)(2).

2. The Plaintiff filed a voluntary petition for relief pursuant to Chapter 13 of the Bankruptcy Code on April 2, 2021.

3. The Debtor's Chapter 13 Plan has not been confirmed.

4. The Plaintiff's case has not been converted to a Chapter 13 case from a Chapter 7 case.

5. The Plaintiff is the owner of a 2016 Nissan Murano, VIN # 1N4AA6AP2GC400494.

6. The Debtor is indebted to the Defendant, Nissan Motor Acceptance Corporation (“Nissan”), for its purchase money security interest in the Debtor’s vehicle.
7. Nissan repossessed the Plaintiff’s 2016 Nissan Murano prior to the filing of instant case.
8. That the Defendant has not sold the Plaintiff’s automobile prior to the filing of the instant case. The Plaintiff has sufficient property interest in the 2016 Nissan Murano upon which to base the instant Complaint for Turnover of property of the Plaintiff’s bankruptcy estate.
9. The Defendant, its agents, contractees, and/or bailees are exercising control over property of the estate and has denied Plaintiff possession and use of the property of the bankruptcy estate.
10. That the Defendant, its agents, contractees, and/or bailees have actual possession of the Plaintiff’s automobile and are continuing to exercise dominion and control over property of the bankruptcy estate in willful violation of Section 362(a)(3) of the Bankruptcy Code.
11. In absence of a court order granting relief from the automatic stay in favor of the Defendant, said creditor has affirmative duty to release property of the estate to the Plaintiff immediately upon request by the Plaintiff. The Defendant has failed to release the 2016 Nissan Murano.
12. That, if the Plaintiff has use of the 2016 Nissan Murano, there is a reasonable expectation that she may successfully reorganize his debts pursuant to his Chapter 13 Plan within the time allowed by law. The Plaintiff is without transportation as a result of 2016 Nissan Murano being repossessed by the Defendant.

WHEREFORE, the Plaintiff, Brianna Brown, prays for the following relief:

- A. That this Court enter an order directing the Defendant, Nissan Motor Acceptance Corporation to turn over the Plaintiff’s 2016 Nissan Murano, VIN #1N4AA6AP2GC400494 to the Plaintiff instanter; and

B. For such other and further relief as this Court deems equitable and just.

Respectfully Submitted,

Dated: April 7, 2021

By: /s/ David H. Cutler
One of the attorneys for the Debtor

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